

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Robert Kwan, Presiding
Courtroom 1675 Calendar**

Thursday, February 09, 2017

Hearing Room 1675

9:00 AM

2:12-51208 Kathleen Kellogg-Taxe

Chapter 7

Adv#: 2:15-01615 Dye v. Taxe

#1.00 TRIAL RE: Complaint for turnover and accounting
[11 U.S.C. §§105, 541, 542]
fr. RN, 9/13/16, 10/25/16

Docket 1

Tentative Ruling:

Updated tentative ruling as of 2/6/17. No tentative ruling will be issued for trial. Appearances are required on 2/9/17.

Prior tentative ruling as of 10/24/16. No tentative ruling on the merits. Appearances are required on 10/25/16, but counsel and self-represented parties may appear by telephone in accordance with the court's telephone appearance procedures (which are posted online on the court's website).

Prior tentative ruling as of 9/12/16. No tentative ruling on the merits. Appearances are required on 9/13/16, but counsel may appear by telephone.

Prior tentative ruling as of 8/8/16. No tentative ruling on the merits. Appearances are required on 8/10/16, but counsel may appear by telephone.

Prior tentative ruling as of 7/18/16. No tentative ruling on the merits. Appearances are required on 7/19/16.

Prior tentative ruling as of 5/23/16. No tentative ruling on the merits. Regarding trustee's pending motion for default judgment, the moving papers lack probative, admissible evidence that defendant ever had possession of the homestead exemption funds, and the court is not inclined to grant the default judgment motion without some evidence to prove up the allegations of the complaint that defendant ever had possession of the subject funds and refuses to turn over them. See *In re Beltran*, 182 B.R. 820, 823-824 (9th Cir. BAP 1995) (bankruptcy courts have discretion to require proof of the facts necessary to determine a valid claim for relief against the defaulting party).

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Trustee's check from the sale of the property for the homestead exemption funds was only payable to Debtor, not defendant, and that the only "evidence" offered by trustee that defendant got possession of the funds is her declaration stating her suspicions, which is not competent, admissible evidence. See Federal Rules of Evidence 601 and 602. At the status conference, the court will schedule a hearing on the default judgment motion for trustee to prove up her turnover claim or set the matter for trial. Appearances are required on 5/24/16, but counsel may appear by telephone.

Prior tentative ruling as of 4/25/16. Off calendar. The court has reviewed trustee's unilateral status report stating that her motion for default judgment is pending, and the court on its own motion continues the status conference to 5/24/16 at 1:30 p.m. pending review of trustee's motion for default judgment. No appearances are required on 4/26/16.

Prior tentative ruling. The court has reviewed trustee's unilateral status report. No tentative ruling on the merits. Appearances are required on 1/26/16, but counsel may appear by telephone.

Party Information

Debtor(s):

Kathleen Kellogg-Taxe

Represented By
Miri Kim Wakuta
Gregory M Salvato

Defendant(s):

Richard Taxe

Pro Se

Plaintiff(s):

Carolyn A. Dye

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Carolyn A Dye (TR)

Represented By
Carolyn A Dye (TR)
James A Dumas Jr

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Miri Kim Wakuta
Christian T Kim

Carolyn A Dye (TR)

Represented By
Christian T Kim

U.S. Trustee(s):

United States Trustee (LA)

Pro Se